

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: Bair Hugger Forced Air Warming
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates to All Actions.

PLAINTIFF(S)

James Shevitski

**SHORT FORM COMPLAINT AND
JURY TRIAL DEMAND**

VS.

**3M COMPANY AND ARIZANT
HEALTHCARE, INC.**

1. Plaintiff, James Shevitski, states and brings this civil action in MDL No. 15-2666, entitled *In Re: Bair Hugger Forced Air Warming Products Liability Litigation*. Plaintiff(s) [is/are] filing this Short Form Complaint as permitted by Pretrial Order #8 of this Court.

PARTIES, JURISDICTION AND VENUE

2. Plaintiff, James Shevitski, is a resident and citizen of the State of Pennsylvania and claims damages as set forth below.

3. ~~Plaintiff's Spouse, _____, is a resident and citizen of the State of _____, and claims damages as set forth below. [Cross out Spousal Claim if not applicable.]~~

4. Jurisdiction is proper based upon diversity of Citizenship.

5. Proper Venue: The District Court in which remand trial is proper and where

~~[Cross out if not applicable.]~~

9. As a result of Plaintiff's infection caused by the Bair Hugger, Plaintiff has

undergone x _____ ~~x~~ ~~Type text here~~ [Describe treatment(s) received, e.g.,
revision arthroplasty, wound vac treatment, multiple staged procedures, etc.] on or about
Geisinger Shamokin Area Community Hospital
5/15/2013, at _____ [medical center(s) and
address(es)] by Dr(s). _____. [Cross out if not applicable.]

ALLEGATIONS AS TO INJURIES

10. (a) Plaintiff claims damages as a result of (check all that are applicable):

x _____ INJURY TO HERSELF/HIMSELF
_____ INJURY TO THE PERSON REPRESENTED
_____ WRONGFUL DEATH
_____ SURVIVORSHIP ACTION
_____ ECONOMIC LOSS

~~(b) Plaintiff's spouse claims damages as a result of (check all that are
applicable): [Cross out if not applicable.]~~

~~===== LOSS OF SERVICES~~
~~===== LOSS OF CONSORTIUM~~

11. Defendants, by their actions or inactions, proximately caused the injuries to
Plaintiff(s).

DEFENDANT-SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY

12. The following claims and allegations are asserted by Plaintiff(s) and are herein
adopted by reference (check all that are applicable):

x _____ FIRST CAUSE OF ACTION - NEGLIGENCE;
x _____ SECOND CAUSE OF ACTION - STRICT LIABILITY;
x _____ FAILURE TO WARN

- x DEFECTIVE DESIGN AND MANUFACTURE
- x THIRD CAUSE OF ACTION 6 BREACH OF EXPRESS WARRANTY;
- x FOURTH CAUSE OF ACTION- BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY LAW OF THE STATE OF Pennsylvania, 13 §§ 2A212 ;
- x FIFTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA PREVENTION OF CONSUMER FRAUD ACT;
- x SIXTH CAUSE OF ACTION 6 VIOLATION OF THE MINNESOTA DECEPTIVE TRADE PRACTICES ACT;
- x SEVENTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA UNLAWFUL TRADE PRACTICES ACT;
- x EIGHTH CAUSE OF ACTION- VIOLATION OF THE MINNESOTA FALSE ADVERTISING ACT;
- x NINTH CAUSE OF ACTION- CONSUMER FRAUD AND/OR UNFAIR AND DECEPTIVE TRADE PRACTICES UNDER LAW OF THE STATE OF Pennsylvania, 73 P.S. §§ 201-1 ;
- x TENTH CAUSE OF ACTION 6 NEGLIGENT MISREPRESENTATION;
- x ELEVENTH CAUSE OF ACTION- FRAUDULENT MISREPRESENTATION;
- x TWELFTH CAUSE OF ACTION 6 FRAUDULENT CONCEALMENT;
- ~~THIRTEENTH CAUSE OF ACTION 6 LOSS OF CONSORTIUM; and~~
- x FOURTEENTH CAUSE OF ACTION 6 UNJUST ENRICHMENT.

In addition to the above, Plaintiff(s) assert the following additional causes of action under applicable state law:

Punitive Damages, Common Law Fraud, Constructive Fraud, Gross Negligence, and

Negligent Infliction of Emotional Distress

[Cross out if not applicable.]

PRAYER FOR RELIEF

WHEREFORE, Plaintiff(s) pray for judgment against Defendants as follows:

1. For compensatory damages;
2. Pre-judgment and post-judgment interest;
3. Statutory damages and relief of the state whose laws will govern this action;
4. Costs and expenses of this litigation;
5. Reasonable attorneys' fees and costs as provided by law;
6. Equitable relief in the nature of disgorgement;
7. Restitution of remedy Defendants' unjust enrichment; and
8. All other relief as the Court deems necessary, just and proper.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff(s) hereby demand(s) a trial by jury as to all claims in Complaint so triable.

Dated: 11/4/2024

Respectfully submitted,



/s/ Charles H. Johnson

Charles H. Johnson

Bar No. 50696

Attorney for Plaintiff

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